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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/724,143

12/01/2003

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CANADA

EXAMINER

ROST, ANDREW J

ART UNIT

PAPER NUMBER

3753

NOTIFICATION DATE

DELIVERY MODE

02/09/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/724,143	<b>Applicant(s)</b> VAN VLIET ET AL.	
	<b>Examiner</b> Andrew J. Rost	<b>Art Unit</b> 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 20-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the amendment filed 11/26/2010. Claims 1-19 have been canceled. Claims 20 and 23 are currently amended. No claims are newly added. Claims 20-23 are pending.

2. It is noted that claim 20 was identified as being "Previously presented" in the amendment dated 11/26/2010. However, claim 20 includes the addition of additional subject matter and is, therefore, currently amended. Claim 20 is being treated as the claim is "Currently amended". The claims are required to have the proper status identifiers. Any future amendments should provide appropriate status identifiers for the claims or the amendment may be deemed non-compliant which may lead to abandonment.

### ***Response to Arguments***

3. Applicant's arguments filed 11/26/2010 have been fully considered but they are not persuasive. Applicants argue the newly added limitations reciting "for a long enough time for storage regulations to apply". It is noted that the Gerardot reference discloses that the system should not come under present containment laws in col. 2, lines 25-26. It is considered that the recitation by the prior art in that the system "should not" come under present containment laws is a recitation of the intent of the prior art. The recitation of "should not" does not mean that it "never will". Additionally, it is considered that the containment laws are set by the jurisdiction in which the device is being operated. Further, it is noted that concrete barriers (25) are set up on both sides of the

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carrier chassis to prevent accidental crashes into the chassis and supply tank (col. 3, lines 53-55). The placement of concrete barriers and the detachment of the tractor (col. 4, lines 11-12) on both sides of the supply tank indicate that the tank will be at a location for an extended period of time. Since it is considered that the storage regulations and containment laws are determined by the jurisdiction of use of the tank and that the length of time that the tank will be at a given location is determined by the operator, it would be within the ability of one of ordinary skill in the art to determine if the supply tank would conform to the storage regulations and containment laws of the operating jurisdiction.

4. Since new grounds of rejection were necessitated by applicant's amendment, the instant Office action is made final.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 20-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 20 recites the limitation "for a long

enough time period for storage regulations to apply” in lines 9-10. It is unclear as to the support for this limitation in the originally filed disclosure. Claim 23 recites a similar limitation in lines 10-11.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 20-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 20 recites the limitation “for a long enough time for storage regulations to apply” in lines 9-10. It is unclear as to how long a “long enough time” is with regards to the storage regulations to apply. It is considered that the containment laws are set by the jurisdiction in which the device is being operated. Therefore, it is unclear as to the metes and bounds of the limitation since the “long enough time” would vary based on the jurisdiction. Claim 23 recites a similar limitation in lines 9-10.

### ***Drawings***

10. The drawings were received on 11/26/2010. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 20, 21 and 23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gerardot (5,983,962).

Regarding claims 20 and 23, Gerardot discloses a method of transporting and storing fluids wherein a tank (1) having a double wall (inner wall 1 and outer wall 65) is provided on a chassis (3) having wheels (figure 1) with the tank being disposed in a horizontally disposed manner wherein the tank is connected to a fluid transfer system; filling the tank with a fluid (fuel; col. 2, lines 55-58; or propane if desired; col. 4, lines 51-55); transporting the fluid to a location (33 of figure 4); disconnecting the tank from the tractor (35 of figure 4) (it is considered that since the tractor is disconnected from the tank that the tank is then considered to be storing the fluid at the location); and dispensing the fluid for use (41). Alternatively, it would have been obvious to one of ordinary skill in the art at the time the invention was made to conform to jurisdictional regulations for transporting and storing of hazardous fluids when transporting a hazardous fluid (i.e., fuel or propane) to a location and storing the fluid at the location for an undetermined amount of time (i.e., the amount of time needed to provide the liquid to

the various customers' vehicles and for operator issues) so that the liquid may be used at the location (i.e., to provide fuel to engines of the customers' vehicles) in order to conform to jurisdictional laws and to minimize potential environmental and personal hazards.

In regards to claim 21, Gerardot discloses the tank to be substantially cylindrical (figures 1 and 2).

14. Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins, Jr. (6,082,392) in view of Gerardot (5,983,962).

Regarding claims 20 and 23, Watkins, Jr. discloses an airport refueler (200) wherein one of ordinary skill in the art would perform the method of providing a tank (200a) on a chassis (figure 1) having wheels (figure 1) with the tank being disposed in a horizontally disposed manner wherein the tank is connected to a fluid transfer system (various fuel-forwarding equipment shown in figure 3); filling the tank with a fluid with a fluid (fuel), transporting the fluid to a location (various locations around an airport), storing the fluid in the tank at the location (i.e., the refueler may be located and parked at a position with the engine turned off which would be considered storing) and using the fuel-forwarding equipment to fuel equipment used at the location (aircraft). Watkins, Jr. does not disclose the tank to be double-walled. However, Gerardot teaches a tank (1) mounted on a chassis for fuel handling wherein the tank has an inner wall (1) and an outer wall (65) in order to provide containment in case of an inner wall leak (col. 3, lines 66-67). Therefore, it would have been obvious to one of ordinary skill in the art at the

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time the invention was made to provide the tank of the Watkins, Jr. reference as a double wall tank as taught by Gerardot in order to provide containment in case of leak of the wall that is in contact with the inner fluid (fuel). Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was made to conform to jurisdictional regulations for transporting (i.e., moving the fuel around to needed areas at the airport) and storing of hazardous fluids when transporting a hazardous fluid (i.e., fuel) to a location and storing the fluid at the location for an undetermined amount of time (i.e., the amount of time needed to provide the liquid to the various vehicles and for operator issues) so that the liquid may be used at the location (i.e., to provide fuel to aircraft) in order to conform to jurisdictional laws and to minimize potential environmental and personal hazards.

In regards to claim 21, Watkins, Jr. discloses the tank to be substantially cylindrical (figure 1).

In regards to claim 22, Watkins, Jr. discloses refiling the tank at the location (at the airport by means of a highway truck 250).

### ***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-2711. The examiner can normally be reached on 7:00 - 4:30 M-Th and 7:00 - 12:00 Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hepperle can be reached on 571-272-4913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. J. R./  
Examiner, Art Unit 3753

/John Rivell/  
Primary Examiner, Art Unit 3753